

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

ROSE TYREE,

Petitioner,

v.

CIVIL CASE NO. 1:24-00370

WARDEN CUTWRIGHT,

Respondent.

MEMORANDUM OPINION AND ORDER

By Standing Order, this action was referred to United States Magistrate Joseph K. Reeder for submission of findings and recommendations regarding disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). See ECF No. 2. The magistrate judge submitted his Proposed Findings and Recommendation ("PF&R") to the court on May 9, 2025, in which he makes three recommendations to the court: (1) deny as moot petitioner Rose Tyree's petition for writ of habeas corpus (ECF No. 1) brought under 28 U.S.C. § 2241; (2) deny as moot respondent's motion to dismiss (ECF No. 6); and dismiss this action from the court's active docket. See ECF No. 9 at 5.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days, plus three mailing days, to object to the PF&R. The failure of any party to file

timely objections constitutes a waiver of such party's right to a de novo review by this court. See Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989). Petitioner did not object to the PF&R.

Accordingly, the court adopts the factual and legal analysis contained within the PF&R; **DENIES** Tyree's petition for habeas corpus (ECF No. 1); **DENIES** as moot respondent's motion to dismiss (ECF No. 6); **DISMISSES** this matter with prejudice; and **DIRECTS** the Clerk to remove this matter from the court's docket.


Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is further directed to forward a copy of this

Memorandum Opinion and Order to counsel of record and petitioner
pro se.

It is **SO ORDERED** this 23rd day of June, 2025.

ENTER:



David A. Faber

Senior United States District Judge